



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
April 8, 2015 at 3:00 p.m.

by
Jan Gouveia
Vice President for Administration
University of Hawai'i System

SB 387 SD2 HD2 – RELATING TO AFFIRMATIVE CONSENT

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

Thank you for the opportunity to submit testimony on SB 387 SD2 HD2, which establishes a task force to review and make recommendations on the University of Hawaii's executive policy on domestic violence, dating violence, sexual assault, and stalking.

The University of Hawai'i supports this measure and believes that a task force would be a fair and useful mechanism to garner insight and a better understanding of the issues from task force members as well as a good tool for the review of the current policy.

It should be noted that the University updated its sexual harassment/sexual violence policy to be both fair and balanced in its form and application, with regards to all stakeholders that have an interest in an affirmative consent policy. These guidelines are specifically intended to address the requirements of the Violence Against Women Act (VAWA). It was carefully crafted, involving months of research and systemwide committee work, to achieve a standard that supports the University's broad mission of promoting safe, healthy campus environments, while at the same time addressing the complex and interrelated requirements of state and federal sex discrimination and sexual violence laws and regulations that cover students, employees, and third parties.

Thank you for the opportunity to testify on SB 387 SD2 HD2.



UNIVERSITY
of HAWAII®
SYSTEM

Testimony presented to the House Committee on Finance

April 8, 2015 at 3:00pm

By

Farrah-Marie Gomes, Chair

SB 387, SD 2, HD 2 – RELATING TO AFFIRMATIVE CONSENT

Dear Chair Luke, Vice Chair Nishimoto and Members of the Committee,

Thank you for this opportunity to provide testimony on SB 387 SD 2 HD 2 that establishes an affirmative consent task force to review and make recommendations on the University of Hawaii's executive policy on domestic violence, dating violence, sexual assault, and stalking. My name is Farrah-Marie Gomes and I present this testimony as Chair of the University of Hawai'i President's Commission on the Status of Women (UH-CSW).

The UH-CSW supports this bill, which makes reference to Executive Policy 1.204 Policy and Procedural Guidelines on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking, that was signed by President Lassner on February 7, 2015. This policy replaces the previous policy on sexual assault and reaffirms the University's commitment to ensuring a safe environment across all ten campuses and having zero tolerance for gender violence and harassment.

It is a result of many months of collaboration and consultation across the UH system -- including consultation with undergraduate and graduate student organizations, faculty senates, student affairs, campus administrators, UH-CSW, LGBTI commission, Title IX and EEO coordinators, all faculty and staff unions, and other stakeholders.

Formed in 1972 at the UH Manoa campus, the UH-CSW expanded in 1986 to include faculty, staff and students appointed by the President of the University of Hawaii, with representatives from our system offices and 10 campuses across the State. The UH-CSW is committed to supporting the well-being, development, and advancement of all University women. The Commission actively promotes a working and learning environment free of sexism and discrimination through policy, advocacy and education.

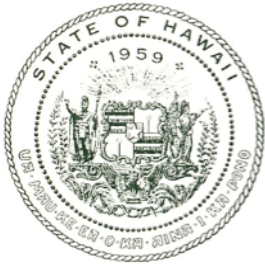
This mission is achieved through serving as a conduit for information between the administration and the total University community by making recommendations to the UH President on issues that have particular relevance for women, including, but not limited to safety and security, equity, access, retention, and advancement; fostering an awareness, understanding and recognition of the potential, contributions, special challenges and many roles women play in a University community; and developing alliances with like organizations throughout the community, state, and nation.

In line with our mission, the UH-CSW pledges to fully support the University of Hawaii with implementation and review of Executive Policy 1.204 Policy and Procedural Guidelines on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking. We are pleased to have a member of our commission included in the composition of the proposed task force.

For the reasons stated above, the UH-CSW supports SB 387 SD 2 HD 2.

Thank you for this opportunity to submit testimony.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH
MARILYN LEE
JUDY KERN

Executive Director
Catherine Betts, JD

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April 7, 2015

To: Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Members of the House Committee on Finance

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB 387, SD2, HD2, Relating to Affirmative Consent

Thank you for hearing this bill and for this opportunity for the Commission to testify in strong support of SB 387, SD2, HD2 which would create a comprehensive and community wide task force to review and revise the affirmative consent standard and policy for purposes of dealing with sexual assault cases, systemwide.

1 in 5 women will be the victim of a completed rape while in college. This epidemic of sexual violence on college campuses violates students' right to be free from sexual harassment while attending school, and thus, falls under the purview of Title IX. Seeing this epidemic nationwide, 800 colleges and universities nationwide have already adopted affirmative consent policies, according to the National Center for Higher Education Risk Management. While California is the only state that has implemented a statewide law, currently 10 other states in the nation are considering affirmative consent legislation. Other universities that have implemented this policy report that an affirmative consent policy improves the campus climate. Further, victims feel more inclined to report knowing that their character, clothing, alcohol intake, or other irrelevant data about their personal life will not be called into question in order to determine whether consent was given.

Historically, victim service providers and representatives from the women's community have largely been unable to consult and provide guidance on policies regarding gender based violence on our college campuses in Hawaii. To that end, the Commission supports the creation of a task force on affirmative consent and other areas of gender based violence. The policies revised through this task force will assist and guide the University of Hawaii system, ensuring compliance with Title IX and the Violence Against Women Act (VAWA Reauth. 2013). The Commission appreciates the opportunity to be a task force member and thanks you for hearing this important measure.



April 8, 2015

To: Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair and
Members of the Committee on Finance

From: Jeanne Y. Ohta, Co-Chair

RE: SB 387 SD2 HD 2 Relating to Affirmative Consent
Hearing: Wednesday, April 8, 2015, 3:00 p.m., Room 308

POSITION: Support

The Hawai'i State Democratic Women's Caucus (HSDWC) writes in support of SB 387 SD2 HD2 Relating to Affirmative Consent which organizes a taskforce to advise the University of Hawaii on an affirmative consent standard for all policies and protocols relating to sexual assault, domestic violence, dating violence, and stalking. However, the Caucus prefers legislation which would mandate that the UH system establish and enforce such policies and hopes that the UH system will be open to the recommendations of the taskforce.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls it is because of this mission that that the caucus supports this measure as a beginning to the establishment of a comprehensive policy that would protect students.

HSDWC is concerned about the lack of effort, lack of urgency, and overall foot dragging by the University of Hawaii system to comply with Title IX and VAWA requirements; and by the UH administration's excuse that they lack resources to follow these laws. UH is responsible for maintaining a safe environment free from violence for all students. This requirement is not new and must be implemented, there is no room for excuses.

The Caucus has been concerned about violence against women on the UH campuses for almost a decade and has advocated for the improvement of campus policies and procedures. We have found the UH administration to be unresponsive to our concerns. This is why we strongly support a legislative mandate to hold the UH administration accountable for implementing needed policies and procedures and to ensure that real progress is made. We believe that despite the recent revelation of a brand new policy, and because of the lack of progress over the last decade, that legislation is necessary to keep the UH system moving forward with the development and implementation of effective policies.

We ask that the committee pass this measure and we thank the committee for the opportunity to provide testimony.

HAWAII YOUTH SERVICES NETWORK

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Web site: <http://www.hysn.org> E-mail: info@hysn.org

Daryl Selman, President
Judith F. Clark, Executive Director
Aloha House
American Civil Liberties Union of Hawaii
Bay Clinic, Inc.
Big Brothers Big Sisters of Honolulu
Big Island Substance Abuse Council
Blueprint for Change
Bobby Benson Center
Catholic Charities Hawaii
Child and Family Service
Coalition for a Drug Free Hawaii
Courage House Hawaii
Domestic Violence Action Center
EPIC, Inc.
Family Programs Hawaii
Family Support Hawaii
Hale Kipa, Inc.
Hale 'Opio Kauai, Inc.
Hawaii Behavioral Health
Hawaii Student Television
Healthy Mothers Healthy Babies Coalition
Hina Mauka Teen Care
Hui Malama Learning Center
Kaanalike
Kahi Mohala Behavioral Health
KEY (Kualoa-Heeiea Ecumenical Youth)
Project
Kids Hurt Too
Kokua Kalihi Valley
Life Foundation
Marimed Foundation
Maui Youth and Family Services
Palama Settlement
P.A.R.E.N.T.S., Inc.
Parents and Children Together (PACT)
Planned Parenthood of Hawaii
REAL
Salvation Army Family Intervention Svcs.
Salvation Army Family Treatment Svcs.
Sex Abuse Treatment Center
Susannah Wesley Community Center
The Catalyst Group
The Children's Alliance of Hawaii
Waikiki Health Center
Women Helping Women
YWCA of Kauai

April 7, 2015

To: Representative Sylvia Luke, Chair
And members of the Committee on Finance

TESTIMONY IN SUPPORT OF SB 387 SD2 HD2 RELATING TO AFFIRMATIVE CONSENT

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, supports SB 387 SD2 HD2 Relating to Affirmative Consent.

Education has long been recognized as the great equalizer in America. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime. Studies show that about one in five women is a survivor of attempted or completed sexual violence while in college. In the great majority of cases (75-80%), she knows her attacker, whether as an acquaintance, classmate, friend or (ex)boyfriend. Many are survivors of what's called "incapacitated assault" in that they are sexually abused while drugged, drunk, passed out, or otherwise incapacitated. In addition, a substantial number of men experience sexual violence during college. Although schools have made progress in addressing rape and sexual assault, more needs to be done to ensure safe, secure environments for students of higher education.

U.S. Department of Education Office for Civil Rights and the U.S. Department of Justice provide general guidance for colleges and universities on how to protect and provide services and support for sexual assault victims; however, there is currently a lack of uniform standards. The inconsistent and in too many cases inadequate application of federal law was highlighted by President Barack Obama's formation of a White House Task Force to Protect Students from Sexual Assault.

The Affirmative Consent Standard strengthens protections for victims of sexual assault on Hawaii college campuses by requiring campuses to adopt an affirmative consent standard for the evaluation of complaints, implement comprehensive prevention programs and victim-centered sexual assault response policies and protocols, and form partnerships with on campus and community-based organizations to assist victims with connecting to services.

Affirmative Consent eliminates ambiguity and serves to educate students about appropriate sexual interactions. This will begin to change the culture of acceptance of sexual activity under certain circumstances, such as when students are intoxicated, and create an environment in which clear affirmative consent is the standard.

Campus sexual assault is a complicated, multidimensional problem with no easy or quick solutions. By passing Affirmative Consent we demonstrate Hawaii's commitment to youth and providing an education free from discrimination.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink, reading "Judith F. Clark". The signature is written in a cursive, flowing style.

Judith F. Clark
Executive Director

To: Hawaii State House of Representatives Committee on Finance
Hearing Date/Time: Wednesday, April 8, 2015, 3:00 p.m.
Place: Hawaii State Capitol, Rm. 308
Re: Testimony of Planned Parenthood of Hawaii in support of S.B. 387, SD2, HD2

Dear Chair Luke and Members of the Committee on Finance,

Planned Parenthood of Hawaii (“PPHI”) writes in support of S.B. 387, SD2, HD2, which seeks to establish a task force to review and make recommendations on the University of Hawaii’s executive policy on domestic violence, dating violence, sexual assault, and stalking.

Planned Parenthood of Hawaii is dedicated to providing Hawaii’s people with high quality, affordable and confidential sexual and reproductive health care, education, and advocacy. We are proud to stand in support of this legislation and to offer our support as a leading sexual and reproductive health care provider. The intersections of gender-based violence and reproductive health are clear. At PPHI, we work to meet the needs of survivors—and to prevent sexual assault from ever happening—in all areas of our work, from screening for intimate partner violence, to advocating for policies that support comprehensive sexual education, including teaching about healthy relationships and consent.

The need for action on college sexual assault in Hawaii is urgent. An estimated one in four women and three percent of men in the United States experience an attempted or completed rape while in college. Moreover, the University of Hawaii system is under federal investigation for Title IX violations and sexual violence case mishandling. This is unacceptable. S.B. 387 will help strengthen campus resources and supportive services for college students as well as ensure that students and faculty learn about affirmative consent, bystander intervention, and how to handle sexual assault cases.

However, education about healthy relationships and consent needs to start much earlier than college. In addition to S.B. 387, we need comprehensive sexual education in every school, starting in kindergarten, to make sure students learn about healthy relationships many years before they even think about going to college or entering into intimate relationships. Gaps that remain in Hawaii’s sexual health education have a significant impact on young people’s well-being and future relationships.

We urge the legislature to pass S.B. 387 and call on the legislature to ensure that comprehensive, age-appropriate sexual health education is provided to every student, every year, from kindergarten through 12th grade. Thank you for this opportunity to testify in support of S.B. 387.

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Sincerely,
Laurie Field
Director of Public Affairs & Government Relations



National Association of Social Workers Hawai'i Chapter

Date: April 7, 2015

To:

[House Committee on Finance](#)

Rep. Sylvia Luke, Chair

Rep. Scott Nishimoto, Vice Chair

The National Association of Social Workers, Hawaii Chapter (NASW) strongly supports Senate Bill 387 SD2 HD 2, relating to Affirmative Consent

The first Affirmative Consent bill was implemented in California last year, since then 9 other states are in the process of considering legislation. Affirmative Consent is an evolution from the "No mean No" ideology to state clearly that when a sexual act is being considered, both parties are clearly stating their consent to the action, and can be withdrawn at any time during the sexual act.

The establishment of a relationship does not give grounds for consent to be implied and someone who is incapacitated or inebriated is unable to give consent. Consent is determined by "affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time." Silence from a participant, lack of protest or resistance does not mean consent and consent to one sexual act does not mean consent to all or future sexual acts.

The University of Hawai'i at Manoa is one of the 55 schools nationally under investigation for Title IX violations, it is clear that legislative mandates are required to drive the University of Hawai'i system forward. The University system had not moved towards adopting affirmative consent language, until this bill gained traction and this bill provides the framework for a proper affirmative consent policy as well as victim advocacy and campus wide training. Thank you for your consideration.

Sonja Bigalke-Bannan, MSW, LSW
Executive Director
National Association of Social Workers, Hawaii Chapter



o'ahu

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March 16, 2015

To: Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
Members of the House Committee on Finance

From: Noriko Namiki
YWCA of O'ahu

Re: Support for SB387 SD2, HD2– Relating to Affirmative Consent

Aloha Chair Choy, Vice Chair Ichiyama and members of the committee:

My name is Noriko Namiki, Chief Executive Officer of the YWCA of O'ahu, testifying in support of SB387 SD2, HD2, Relating to Affirmative Consent, which would mandate that the University of Hawaii implement an affirmative consent standard and policy for purposes of dealing with sexual assault cases, system-wide. Additionally, SB387 SD2, HD2 contains important components, including increased sexual assault prevention and education, increased crisis intervention services, and procedural protections for both victims and the accused.

Although California is the only state that has implemented a statewide law, Hawaii and ten other states in are considering affirmative consent legislation. Of the more than 800 universities and colleges that have implemented this policy, the majority report that an affirmative consent policy improves the campus climate. Mandating an affirmative consent policy across all UH campuses would provide better understanding of the university's policies and would even out the disparate process in which different campuses approach sexual assault cases.

The University of Hawaii is still under a Title IX investigation by the United States Department of Education, Office of Civil Rights, along with more than 50 other universities nationwide. When the Commission began discussions with the UHM about the need for Title IX and VAWA compliance, a robust training process, more hiring of Title IX staff, education on sexual violence and dating violence during new student orientation, and the availability of campus crisis services for students who experience sexual violence, the discussion was slow and much was promised in terms of compliance and movement forward.

Despite the passage of Title IX of the Education Amendments of 1972, which protects individuals from discrimination based on sex in education programs or activities that receive Federal financial assistance, and the 2013 reauthorization of the Violence Against Women Act ("VAWA"), which expands protections for victims of domestic abuse and sexual assault, it is still shocking to see that even today one in five women will be the victim of rape or attempted rape. For women who attend college, the statistics are grimmer with one in four college women reporting rape or attempted rape since their 14th birthday.

In 2012, UH Manoa reported 11 forcible sex offenses in 2012 according to a campus report issued in compliance with the Clery Act, which provides guidelines for campus safety and security reporting. System-wide, the number was 11 in 2012. In 2011, UH Manoa reported 12 assaults with 16 reported system-wide.

The Clery Act requires annual reporting of statistics for various criminal offenses including sexual assault, however, Kauai and Leeward campus did not issue reports for the last two years.

Although Title IX and the changes to VAWA, specifically to Section 304 – that Campus Sexual Violence Act Provision – which imposes new rules that demand institutional overhaul and a renewed commitment to compliance at universities like UH which receive federal funding, UH students continue to face sexual violence on campus. We are gravely concerned that not only are sexual crimes under-reported system-wide, they are going unreported and perpetrators are getting away unpunished.

Since its founding in 1900, the YWCA of O‘ahu exists to cultivate opportunities for women’s and girls’ growth and leadership, to help them create fulfilling lives for themselves and their families, and facilitating social change with positive economic impact for their communities.

On behalf of the YWCA of O‘ahu, I humbly urge members of this committee to pass this legislation.

With Aloha,

A handwritten signature in black ink, appearing to read "Noriko Namiki". The signature is fluid and cursive, with a period at the end.

Noriko Namiki
Chief Executive Officer
YWCA of O‘ahu

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, April 07, 2015 3:24 PM
To: FINTestimony
Cc: lisak@hmhb-hawaii.org
Subject: Submitted testimony for SB387 on Apr 8, 2015 15:00PM

LATE

SB387

Submitted on: 4/7/2015

Testimony for FIN on Apr 8, 2015 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Kimura	Healthy Mothers Healthy Babies	Support	No

Comments: Affirmative consent is a vital component to changing the culture of sexual violence in our communities. We stand in support the establishment of an affirmative consent task force to review and revise UH sexual assault policy. Please consider passing this bill. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

LATE

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Adriana Ramelli

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Councilmember
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Gidget Ruscetta

Joshua A. Wisch

DATE: April 8, 2015

TO: The Honorable Sylvia Luke, Chair
The Honorable Scott Nishimoto, Vice Chair
House Committee on Finance

FROM: Adriana Ramelli, Executive Director
The Sex Abuse Treatment Center

RE: Testimony in Support of S.B. 387, S.D. 2, H.D. 2
Relating to Affirmative Consent

I would like to thank the Committee for this opportunity to provide testimony on behalf of The Sex Abuse Treatment Center, a program of Kapi'olani Medical Center for Women & Children, in strong support of Senate Bill 387, Senate Draft 2, House Draft 2 (S.B. 387, S.D. 2, H.D. 2).

S.B. 387, S.D. 2, H.D. 2 would establish a task force including representatives from the University of Hawai'i system (UH), state government agencies, and community organizations to review and make recommendations for UH's executive policy on sexual assault, in order to strengthen protections for students on all UH campuses.

Sexual assault remains epidemic on college campuses: 1 in 5 women and 1 in 16 men are sexually assaulted during college. Moreover, 90% of these assaults go unreported and, of reported assaults, only 30% of perpetrators who are found guilty are expelled. This has triggered sweeping federal countermeasures, including strict annual reporting requirements. Notably, UH was recently placed under investigation by the U.S. Department of Education for possible violations of federal law over the handling of sexual violence complaints.

Despite nationwide focus on this issue, schools continue to struggle to implement policies and programs to prevent sexual assault and adequately support survivors. This is unacceptable, as schools have a duty to provide safety and security, allowing students to pursue their educational goals free from the devastating physical, emotional, and social effects of sexual assault.

The SATC notes that UH recently published a revised written policy concerning sexual assault which includes a definition of affirmative consent. While this is an important and commendable first step, we respectfully point out that the revised policy does not create and implement, or provide an adequate framework for, a comprehensive, integrated prevention and response system for sexual assault on UH campuses.

It is our strong belief that such a prevention and response system is needed to effectively combat on-campus sexual assault. In particular, we would recommend that students and faculty receive education and training regarding UH's policies to address sexual assault, and all related procedures and resources, both as new members of the UH community and on an ongoing basis; that UH staff who interact with survivors of sexual assault receive training in non-judgmental, victim-centered communication skills; that processes for receiving, investigating, and adjudicating complaints, to the greatest extent reasonable, be transparent, easy-to-understand, fair, and consistent across all UH campuses; that survivors be able to receive immediate and ongoing care, treatment and support, from both on-campus and community providers; and that complainant survivors and survivor-witnesses be informed of their right to report offenses to law enforcement, and that UH be prepared and willing to coordinate and cooperate with law enforcement with respect to such reports.

By bringing together a taskforce comprised of representatives from UH and stakeholder government agencies and community organizations, S.B. 387, S.D. 2, H.D. 2 will allow the State of Hawai'i to efficiently develop a comprehensive prevention and response system for all UH campuses, with corresponding changes to UH's policy.

Therefore, your support of this measure safeguards Hawai'i's college students and sends a powerful message that our State shall ensure them a secure and respectful learning environment.

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, April 07, 2015 7:56 PM
To: FINTestimony
Cc: mlopes@hscadv.org
Subject: Submitted testimony for SB387 on Apr 8, 2015 15:00PM

SB387

Submitted on: 4/7/2015

Testimony for FIN on Apr 8, 2015 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Marci Lopes	Hawaii State Coalition Against Domestic Violence	Support	No

Comments: The Hawaii State Coalition against Domestic Violence is in support of a mandated affirmative consent policy in UH system. While we feel that the University needs strong legislative oversight to remain sufficiently motivated to change the culture of violence against women so prevalent in the college system, we are hopeful that this task force will provide meaningful solutions. We also support all measure to increase training for all UH staff that will be working with all victims in the UH system. thank you for your efforts to improve the systemic responses to violence against women.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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